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SIPDIS

SENSITIVE

FROM THE U.S. MISSION TO THE UN AGENCIES IN ROME

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SUBJECT: RIGHT TO FOOD: REPORT OF INTERSESSIONAL
MEETING, INTERGOVERNMENTAL WORKING GROUP ON VOLUNTARY
GUIDELINES, 2-5 FEB 2004

REFS: (A) 03 ROME 5747, (B) 03 ROME 4443,

(C) 03 ROME 1380

THIS CABLE CONTAINS SENSITIVE BUT UNCLASSIFIED SECTIONS
THAT ARE INTENDED STRICTLY FOR INTERNAL USG USE.

¶1. (SBU) SUMMARY. A FORMAL INTERSESSIONAL MEETING (OPEN-ENDED WORKING GROUP [OEWG]) OF THE INTERGOVERNMENTAL WORKING GROUP (IGWG) FOR THE ELABORATION OF VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY MET IN ROME FEBRUARY 2-5. AS FORESHADOWED FROM GOVERNMENT INTERVENTIONS IN THE OCTOBER IGWG SESSION (SEE REF A), GIVEN THE FIRST OPPORTUNITY TO MAKE FORMAL TEXTUAL PROPOSALS TO WHAT HAD BEEN FROM THE U.S. PERSPECTIVE A GENERALLY ACCEPTABLE OPENING TEXT, DELEGATIONS IN THE FEBRUARY ROUND MADE MORE THAN FOUR HUNDRED, OFTEN SUBSTANTIIVELY PROBLEMATIC, PROPOSALS. DESPITE CALLS FROM THE IGWG CHAIRMAN FOR DELEGATIONS TO WORK AS CLOSELY AS POSSIBLE FROM THE OPENING TEXT, HE WAS UNABLE TO IMPOSE DISCIPLINE ON EITHER REGIONAL GROUP OR NATIONAL DELEGATIONS. SO GREAT AND VARIED WERE THESE PROPOSALS THAT THE ENTIRE OEWG SESSION DEVOLVED INTO A PROCESS OF COLLECTING PROPOSALS, WITHOUT AN OPPORTUNITY FOR SUBSTANTIVE NEGOTIATION.

¶2. (SBU) THE HIGHLY BRACKETED TEXT THAT EMERGED FROM THE SESSION IS NOW 100 PAGES IN LENGTH. MANY OF THE PROPOSALS ARE SUBSTANTIIVELY OBJECTIONABLE TO THE USG. AMONG THE PROBLEMATICAL ISSUES ARE: : THE MISCHARACTERIZATION OF THE SUBSTANTIVE SCOPE OF AN INTERNATIONAL RIGHT TO "THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD;" OVERLY PRESCRIPTIVE GUIDANCE ON DOMESTIC POLICIES STATES SHOULD ADOPT TO PROTECT ACCESS TO FOOD; AN ATTEMPT TO ADOPT PROVISIONS THAT WOULD APPLY TO ARMED CONFLICT AND FOREIGN OCCUPATION; AND TENDENTIOUS PROPOSALS FROM DEVELOPING COUNTRIES AND NGOS ON ECONOMIC AND SOCIAL DEVELOPMENT, DEVELOPMENT ASSISTANCE, REALIGNING INTERNATIONAL FINANCIAL INSTITUTION LENDING CRITERIA, DEBT RELIEF, ACCESS TO RESOURCES, TECHNOLOGY TRANSFER, DOMESTIC LAND REFORM, AND RESPONSIBILITIES OF INTERNATIONAL ORGANIZATIONS.

¶3. (SBU) RECOGNIZING THAT THE TEXT THAT EMERGED WAS SO COMPLEX AND CONFUSING AS TO MAKE IT IMPOSSIBLE LOGISTICALLY TO NEGOTIATE FROM IT (I.E., SOME GUIDELINES HAVE OVER HALF A DOZEN DIFFERENT FORMULATIONS OF THE SAME PARAGRAPH), RATHER THAN SCHEDULING AN INTERSESSIONAL NEGOTIATING ROUND, THE IGWG CALLED UPON ITS BUREAU TO MEET IN A NON-NEGOTIATING CAPACITY TO STREAMLINE THE TEXTUAL PROPOSALS PRIOR TO THE JULY 5-9 IGWG SESSION. THIS BUREAU MEETING WILL TAKE PLACE IN ROME FROM APRIL 26 TO MAY 1.

¶4. (SBU) A TOUGH ROAD AHEAD. BASED ON ITS OBSERVATIONS OVER THE LAST TWO IGWG SESSIONS, THE U.S. DELEGATION IS NOT OPTIMISTIC THAT THE THIRD AND FINAL SCHEDULED IGWG SESSION IN JULY WILL BE ABLE TO CONCLUDE THIS NEGOTIATION OR TO NEGOTIATE A TEXT THAT WILL BE ACCEPTABLE TO THE UNITED STATES. THAT SAID, GIVEN THE MANDATE FROM THE WORLD FOOD SUMMIT FIVE YEARS LATER TO CONCLUDE SUCH AN INSTRUMENT BY SEPTEMBER 2004 AND THE COMMITMENT BY NEARLY ALL OTHER DELEGATIONS TO COMPLETE THE PROCESS, THERE IS NO PROSPECT THAT THESE NEGOTIATIONS WILL FAIL TO PRODUCE A FINAL PRODUCT. IT ALSO SEEMS CLEAR THAT THE ABSENCE OF A STRONG U.S. PRESENCE IN THE NEGOTIATION WOULD LEAD TO A FAR WORSE FINAL SUBSTANTIVE OUTCOME. THE JULY IGWG SESSION, MOREOVER, WILL BE CHALLENGING, AS THE STRUCTURE OF THE MEETING WILL REQUIRE NO FEWER THAN THREE SEASONED NEGOTIATORS TO REPRESENT THE UNITED STATES IN, RESPECTIVELY, A PLENARY AND TWO SEPARATE ROUND-THE-CLOCK WORKING GROUPS. END SUMMARY.

CONTEXT

15. (U) THE BACKGROUND OF THESE NEGOTIATIONS IS PROVIDED IN REF A. ALTHOUGH IT WAS THE THIRD MEETING OF THE IGWG, THE FEBRUARY SESSION WAS THE FIRST FORMAL OPPORTUNITY FOR DELEGATIONS TO MAKE TEXTUAL PROPOSALS TO THE CHAIRMAN'S OCTOBER 2003 OPENING TEXT. THE NEGOTIATIONS HAVE BEEN AT LEAST NOMINALLY ORGANIZED

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, AFRICA, THE NEAR EAST, AND THE SOUTH-WEST PACIFIC). EACH REGION MAY APPOINT A REPRESENTATIVE TO THE IGWG BUREAU. NORTH AMERICA (WHICH CONSISTS OF CANADA AND THE UNITED STATES) IS CURRENTLY REPRESENTED IN THE BUREAU BY THE UNITED STATES. THE SW PACIFIC GROUP, CONSISTING ON AUSTRALIA, NEW ZEALAND AND 12 SMALL ISLAND STATES, WITHDREW FROM THE IGWG PROCESS PRIOR TO THE FEBRUARY OEWG, CITING A LACK OF RESOURCES TO DEDICATE TO THIS NEGOTIATION.

16. (SBU) REGIONAL GROUP DYNAMICS. IN THE BUREAU MEETINGS PRIOR TO THE FEBRUARY ROUND, CHAIRMAN NOORI EMPHASIZED THAT THE ONLY WAY TO NEGOTIATE THIS TEXT WAS FOR THE REGIONAL GROUP REPRESENTATIVES TO ENSURE THAT THEIR REGIONS WORKED CLOSELY FROM THE CHAIRMAN'S OCTOBER 2003 TEXT AND WOULD REFRAIN FROM PROPOSING A LARGE NUMBER OF CHANGES TO THAT TEXT. IN THE MONTHS PRIOR TO THE FEBRUARY ROUND, U.S. PARTICIPANTS WORKED BEHIND THE SCENES WITH THE CANADIAN MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE TO COORDINATE THE NORTH AMERICAN POSITION. THE RESULTS OF THESE EFFORTS WERE ONE OF THE FEW BRIGHT SPOTS TO EMERGE FROM THE FEBRUARY ROUND, AS U.S. AND CANADIAN VIEWS WERE UNCOMMONLY SIMILAR AND CLOSELY COORDINATED.

17. (SBU) EUROPE IN SHAMBLES. UNFORTUNATELY, WHILE THE NORTH AMERICAN REGION STAYED WITHIN THE CHAIRMAN'S REQUEST, THE OTHER REGIONAL GROUPS UNRAVELED. EUROPE WAS UNABLE TO DEVELOP A COMMON POSITION FOR THE FEBRUARY ROUND. INSTEAD, ONLY THE EUROPEAN UNION AND ACCESSION STATES SPOKE AS A GROUP, WHILE SWITZERLAND AND NORWAY MADE A TRULY REMARKABLE AND UNHELPFUL NUMBER OF PROPOSALS ON VIRTUALLY EVERY PARAGRAPH OF EVERY GUIDELINE. OF THE 450 TEXTUAL CHANGES PROPOSED IN BY DELEGATIONS IN THE FEBRUARY ROUND, MORE THAN 150 CAME FROM NORWAY AND SWITZERLAND. THESE PROPOSALS TENDED, MOREOVER, TO BE AMONG THE MOST EXTREME, INCLUDING PROVISIONS TO REDEFINE THE NATURE OF THE RIGHT TO FOOD, NEW RULES TO GOVERN THE LAW OF WAR (SWITZERLAND), A NEW PROVISION ON MONITORING AND COMPLIANCE (SWITZERLAND), AND AN ENTIRELY NEW AND UNASKED-FOR ANNEX ON "BEST PRACTICES." IN CONTRAST, THE EU'S POSITION WAS FAR MORE CONSTRUCTIVE AND RESTRAINED. THE EU ISSUED A PARTICULARLY HELPFUL INTERVENTION THAT THE GUIDELINES SHOULD NOT CONTAIN A SECTION ON THE INTERNATIONAL DIMENSION.

18. (SBU) OTHER REGIONS. ANOTHER FACTOR AT WORK TO DEFEAT THE CHAIRMAN'S EFFORT TO ADHERE TO THE OCTOBER TEXT WAS THE REALITY THAT THE G-77 GROUP EMERGED AS THE REAL NEGOTIATING FULCRUM OF THE REGIONAL GROUPS OTHER THAN EUROPE AND NORTH AMERICA. HERE TOO, HOWEVER, REGIONAL GROUPS DID NOT SPEAK WITH ONE VOICE. ASIA WAS PARTICULARLY FRACTURED, AS IT DIVIDED ALONG DEVELOPING-DEVELOPED COUNTRY LINES (WITH JAPAN AND SOUTH KOREA OFTEN AT ODDS WITH THE REST OF THE REGION). INEXPICABLY, PAKISTAN AND INDIA ALSO SENT DELEGATIONS THAT MADE DOZENS OF DRAFTING PROPOSALS.

19. (SBU) THE ROLE OF NGOS. IN ADDITION TO THE COHESION OF THE NORTH AMERICAN DELEGATION, ANOTHER POSITIVE DEVELOPMENT WAS THE SUCCESSFUL USG EFFORT TO DEFEAT AN ATTEMPT TO ALLOW NGO OBSERVERS TO PARTICIPATE IN THE SAME WAY AS REGIONAL GROUPS OR MEMBER STATES. THANKS TO WORK BEHIND THE SCENES PRIOR TO AND DURING THE BUREAU SESSION ON THE MORNING BEFORE THE FIRST PLENARY MEETING, A PROPOSAL TO ALLOW NGO AND OTHER NON-GOVERNMENTAL OBSERVERS TO PROPOSE TEXTUAL AMENDMENTS WAS DEFEATED. IN ITS PLACE, NON-GOVERNMENTAL OBSERVERS MADE GENERAL COMMENTS WITH RESPECT TO EACH GUIDELINE BEFORE THE TEXT WAS FORMALLY OPENED FOR AMENDMENT. THEREAFTER, REGIONAL GROUPS AND STATES WERE FREE TO MAKE PROPOSALS. IN PRACTICE, THIS SEEMED TO GIVE NGOS THE ABILITY TO PROPERLY HAVE THEIR VIEWS KNOWN AND TAKEN INTO ACCOUNT IN THE PROCESS, WHILE NOT CREATING YET ANOTHER SOURCE OF TEXTUAL PROPOSALS.

NEGOTIATIONS OF THE TEXT

10. (SBU) THE FIRST NEGOTIATING SESSION SET THE UNFORTUNATE PATTERN FOR THE WEEK'S MEETING. IN AN EFFORT TO GET THE NEGOTIATIONS OFF TO A QUICK START, CHAIRMAN

BE AN UTTERLY UNCONTROVERSIAL GUIDELINE ON "DEMOCRACY, GOOD GOVERNANCE AND HUMAN RIGHTS." THE FIRST THREE-LINE PARAGRAPH, WHICH CONTAINS STANDARD LANGUAGE ON THE IMPORTANCE OF DEMOCRACY AND FREEDOM, OCCUPIED THE ENTIRE THREE-HOUR MORNING SESSION. NORWAY SPENT ROUGHLY AN HOUR DISCUSSING ITS PROPOSAL TO REDRAFT AND REORGANIZE THE ENTIRE GUIDELINES. DESPITE THE CHAIRMAN'S ADMONITIONS TO AVOID MAKING UNDUE CHANGES TO THE OCTOBER TEXT, PROPOSALS FROM GRULAC, NORWAY, THE EU, THE NEAR EAST, SWITZERLAND, AFRICA, AND PAKISTAN CONVERTED THE PREVIOUSLY THREE-LINE OPENING TEXT INTO ROUGHLY A PAGE OF HIGHLY BRACKETED LANGUAGE. NORWAY'S PROPOSAL TO CONVERT THE GUIDELINES ON CIVIL AND POLITICAL RIGHTS INTO NON-RECOMMENDATORY BACKGROUND WAS PARTICULARLY DIFFICULT TO FATHOM.

¶11. (SBU) THE PATTERN OF WORK CONTINUED IN THE AFTERNOON OF THE FIRST DAY, DURING WHICH DELEGATIONS WERE UNABLE TO COMPLETE WORK ON THE FIRST GUIDELINE. AS THERE ARE 18 GUIDELINES ALONG WITH EXTENSIVE INTRODUCTORY TEXT, THE CHAIRMAN REALIZED THAT HE COULD NOT CONTINUE THAT PATTERN OF WORK. ACCORDINGLY, FOR THE LAST THREE DAYS, HE SIMPLY ASKED DELEGATIONS TO MAKE THEIR PROPOSALS TO THE GUIDELINES WITHOUT SEEKING SUBSTANTIVE VIEWS FROM OTHER DELEGATIONS ON THOSE PROPOSALS.

SUBSTANTIVE TEXTUAL PROBLEM AREAS

¶12. (SBU) SO EXTENSIVE WERE THE PROPOSALS THAT, EVEN WITH THIS MODIFICATION, IT WAS NOT POSSIBLE DURING THE FOUR-DAY SESSION TO HAVE ALL OF THE 450 PROPOSALS ENTERED INTO THE TEXT FROM THE FLOOR. ON THE FINAL SESSION, THE CHAIRMAN ASKED DELEGATIONS TO SUBMIT THEIR PROPOSALS ON THE MOST CONTROVERSIAL SUBJECTS (INTERNATIONAL SECTION AND INTRODUCTION) IN WRITING AFTER THE SESSION. ALTHOUGH THE UNITED STATES AS A MEMBER OF THE BUREAU HAS SEEN THE SECRETARIAT'S EFFORT TO COMPILE THE TEXT, AS OF MARCH 29,

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THE SECRETARIAT HAS NOT CIRCULATED A TEXT REFLECTING THE ALL OF THE PROPOSALS. BASED ON THE CURRENT INFORMAL DRAFT, THE ISSUES THAT WILL CONFRONT THE US DELEGATION AT THE JULY ROUND WILL INCLUDE:

- (1) PROBLEMATIC PROPOSALS ON THE SUBSTANTIVE SCOPE OF AN INTERNATIONAL RIGHT TO "THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD";
- (2) SOME ATTEMPTS TO DIMINISH THE IMPORTANCE OF CIVIL AND POLITICAL RIGHTS;
- (3) OVERLY PRESCRIPTIVE GUIDANCE ON DOMESTIC POLICIES STATES SHOULD ADOPT TO PROTECT ACCESS TO FOOD (E.G., STATES SHOULD ADOPT A HUMAN RIGHTS OMBUDSMAN WITH A MANDATE TO REVIEW RIGHT TO FOOD ISSUES AND STATES SHOULD ENSURE THAT BUDGET CUTS TO NOT REDUCE ACCESS TO FOOD);
- (4) A SWISS AND SOME DEVELOPING COUNTRIES' ATTEMPT TO ADOPT PROVISIONS THAT WOULD APPLY TO ARMED CONFLICT AND FOREIGN OCCUPATION;
- (5) A LENGTHY AND OBJECTIONABLE SWISS ANNEX LAYING OUT AN EXPANSIVE DEFINITION OF THE SCOPE OF THE RIGHT TO ADEQUATE FOOD AND PURPORTING TO SET FORTH THE RESPONSIBILITIES OF STATES, INTERNATIONAL ORGANIZATIONS, NGOS AND THE PRIVATE SECTOR;
- (6) PROBLEMATIC PROPOSALS BY NORWAY ON FOOD SAFETY AND CONSUMER PROTECTION;
- (7) PROPOSALS ON THE PROVISION OF INTERNATIONAL FOOD AID GENERALLY AND DURING COMPLEX HUMANITARIAN EMERGENCIES;
- (8) PROPOSALS ON NATURAL RESOURCES, INCLUDING ACCESS TO WATER, LAND (INCLUDING LAND REFORM), AND GENETIC RESOURCES;
- (9) PROPOSALS FROM DEVELOPING COUNTRIES THAT EXPRESS THEIR VIEWS ON ECONOMIC AND SOCIAL DEVELOPMENT, DEVELOPMENT ASSISTANCE, REALIGNING INTERNATIONAL FINANCIAL INSTITUTION LENDING CRITERIA, DEBT RELIEF, ACCESS TO RESOURCES, TECHNOLOGY TRANSFER, DOMESTIC LAND

¶13. (SBU) AS NOTED ABOVE, THE JULY IGWG WILL PRESENT A FORMIDABLE CHALLENGE TO THE U.S. DELEGATION. IT WILL BE INCUMBENT ON THE DEPARTMENT AND OTHER WASHINGTON AGENCIES TO PREPARE ACCORDINGLY. THE FAO HAS BUDGETED FOR

INTERPRETATION FOR A PLENARY AND TWO FULL-TIME WORKING GROUPS DURING THE FIVE-DAY SESSION. THIS STRUCTURE WILL CALL FOR A U.S. DELEGATION CONSISTING OF NO FEWER THAN THREE EXPERIENCED NEGOTIATORS. AS ONE OF THE WORKING GROUPS WILL FOCUS ON THE INTERNATIONAL ECONOMIC SECTION OF THE CURRENT DRAFT, THE PRESENCE OF A NEGOTIATOR FROM EB WILL BE ESSENTIAL.

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